



NORTH CAROLINA SHERIFFS' ASSOCIATION
LAW ENFORCEMENT OFFICERS AND STATE OFFICIALS
OF NORTH CAROLINA

President
SHERIFF JOHN W. INGRAM, V
Brunswick County

First Vice President
SHERIFF DAVID A. MAHONEY
Transylvania County

Second Vice President
SHERIFF ED McMAHON
New Hanover County

Third Vice President
SHERIFF CHARLES S. BLACKWOOD
Orange County

Secretary
SHERIFF ALAN C. JONES
Caldwell County

Treasurer
SHERIFF ALAN CLONINGER
Gaston County

Chairman - Executive Committee
SHERIFF JAMES E. CLEMMONS, JR.
Richmond County

Executive Vice President
and General Counsel
EDMOND W. CALDWELL, JR.

EXECUTIVE COMMITTEE
MEMBERS
(Past Presidents)

SHERIFF STEVE BIZZELL
Johnston County

SHERIFF SAM PAGE
Rockingham County

SHERIFF KEVIN FRYE
Avery County

SHERIFF ASA B. BUCK, III
Carteret County

SHERIFF HUBERT A. PETERKIN
Hoke County

EMAIL TO: All Sheriffs
FROM: Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association
SENT: March 14, 2020
SUBJECT: Restrictions on Firearms During a Declared State of Emergency

Prior to 2012, during a declared state of emergency, several General Statutes allowed restrictions and prohibitions to be imposed on the "possession, transportation, sale, purchase, storage and use of dangerous weapons and substances, and gasoline." "Dangerous weapons" included firearms such as handguns, rifles, and shotguns." Those General Statutes, as they applied to firearms, were held unconstitutional in the federal court case of Bateman v. Perdue, 881 F.Supp.2d 709 (2012).

As a result, the North Carolina General Assembly repealed those General Statutes and enacted the current statute [G.S. 166A-19.31] to address this issue, which became effective October 1, 2012.

G.S. 166A-19.31(b)(4) provides that ordinances enacted by counties or cities during a state of emergency may include prohibitions and restrictions: "Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this subdivision does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition" (emphasis added.) As used in this subdivision, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this subdivision, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).

In explaining this law in a Blog post on June 1, 2012, and in her current teaching materials, Norma Houston, Lecturer in Public Law and Government, at the UNC-CH School of Government, explains in pertinent part:

What does this mean for local governments and citizens?

Local governments can still impose restrictions on dangerous weapons such as explosives, incendiary devices, and radioactive materials and devices, but cannot impose restrictions on lawfully possessed handguns, rifles, and shotguns. For example, if an individual is carrying a concealed



100% Membership

Post Office Box 20049 • Raleigh, N.C. 27619-0049 • Telephone: (919) SHERIFF (743-7433)

Fax: (919) 783-5272 • E-mail: nrsa@ncsheriffs.net • www.ncsheriffs.org

The North Carolina Sheriffs' Association is a Non-Profit, tax exempt organization recognized by the I.R.S.

handgun with a valid concealed carry permit during a declared state of emergency under which a dangerous weapons prohibition has been imposed, the local prohibition would not apply to this individual's lawful possession of a concealed handgun.

Keep in mind that a wide variety of events may constitute a disaster – from a hurricane to a winter ice storm to a terrorist attack to a nuclear plant melt-down. Some disasters may warrant restrictions on dangerous weapons to protect public health and safety (imagine the need to ban the sale of explosives when under threat of a terrorist attack). However, under the exception, citizens can still lawfully possess handguns, rifles, and shotguns, even in these situations.

What cities and counties CAN do under a local state of emergency...

- Restrict other “dangerous weapons and substances”
- Enforce other emergency restrictions (such as a curfew) even if an individual is lawfully possessing a firearm
- Enforce other state gun laws (such as concealed-carry permit requirements)
- Include gun stores in business restrictions (but only to the same extent as other businesses)

What does this NOT mean for local governments and citizens?

This exception to the dangerous weapons restriction authorization does not override other restrictions that local governments are authorized to impose during a state of emergency. For example, if a curfew is imposed, an individual cannot violate the curfew even if he lawfully possessed a firearm. Or, if an evacuation is ordered, an individual may lawfully transport a firearm while evacuating, but must still heed the evacuation order. This exception also does not override other local ordinances relating to weapons (such as those prohibiting weapons in local government buildings); it only applies if and when restrictions on dangerous weapons are imposed during a declared state of emergency.

What cities and counties CANNOT do under a local state of emergency...

- Limit or restrict the “possession, transportation, sale, purchase, storage, and use” of lawfully possessed firearms (defined as handguns, shotguns, and rifles) and ammunition for those firearms
- Prohibit the lawful sale of firearms
- Prohibit the lawful sale of ammunition for lawfully possessed firearms
- Prohibit lawful concealed carrying of handguns
- Prohibit lawful open carrying of handguns (or shotguns or rifles)

If you have any questions or need any additional information, please contact Matthew Boyatt, NCSA Deputy General Counsel, at 919-459-6467 or mboyatt@ncsheriffs.net.

Thanks....Eddie C.



Edmond W. (Eddie) Caldwell, Jr.

Executive Vice President and General Counsel

North Carolina Sheriffs' Association, Inc.

Post Office Box 20049

Raleigh, North Carolina 27619-0049

Telephone: (919) 459-1052

Fax: (919) 783-5272

Email: ecaldwell@ncsheriffs.net

Webpage: www.ncsheriffs.org

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922
